

#### **401 KAR 40:060. County enforcement representative.**

RELATES TO: KRS 224.01, 224.10, 224.18, 224.40, 224.43, 224.46, 224.99

STATUTORY AUTHORITY: KRS 109.042, 224.10-100, 224.43-310

NECESSITY, FUNCTION, AND CONFORMITY: KRS 109.042 requires the cabinet to promulgate administrative regulations for local government inspection of solid waste landfills and enforcement procedures. This administrative regulation establishes the minimum requirements for appointment as a county enforcement representative, establishes standards for compliance monitoring and establishes reporting requirements.

Section 1. Position Requirements. When a county or urban county government elects to employ a county enforcement representative under the provisions of KRS 109.042, the individual employed in the position shall, at a minimum, meet the following requirements:

(1) The representative shall be a graduate of a college or university with a bachelors degree including fifteen (15) semester equivalent hours in the physical or biological sciences. Professional experience in environmental management may substitute for the educational requirements on a year-for-year basis.

(2) The individual appointed to the position of county enforcement representative shall within one (1) year of appointment complete the manager portion of the Kentucky Landfill Operator Certification Program and successfully complete the certified landfill manager test as outlined in 401 KAR 47:070.

Section 2. Inspection Requirements. (1) The county enforcement representative shall conduct inspections or investigations in a manner that is reasonable and necessary. The county enforcement representative shall obtain information and evidence with which to determine the compliance of the facilities identified in Section 5 of this administrative regulation with the provisions of relative KRS Chapter 224, 401 KAR Chapters 47 and 48, terms and conditions of a permit and any order of the secretary. Inspections shall be conducted in accordance with procedures approved by the cabinet using forms approved by the cabinet.

(2) The county enforcement representative upon presentation of proper identification and authority may:

(a) Enter any permitted facility identified in Section 5 of this administrative regulation located in the county, to inspect the premises and gather evidence on existing conditions and procedures;

(b) Obtain representative samples of waste or any material believed to be polluting or contaminating the environment;

(c) Conduct tests, analyses and evaluations to determine compliance with the requirements of KRS Chapter 224, 401 KAR Chapters 47 and 48, terms and conditions of a permit and any order of the secretary;

(d) Obtain samples of any containers and photographs or facsimiles of container labels;

(e) Inspect and copy any pertinent records, reports, information or test results relating to the requirements of KRS Chapter 224 and 401 KAR Chapters 47 and 48, terms and conditions of the permit and any order of the secretary; and

(f) Question any person found on the premises, including but not limited to employees or agents of the owner, operator or agency in charge of the premises, concerning their duties, responsibilities, past activities or any other matter relating to the requirements of KRS Chapter 224 and 401 KAR Chapters 47 through 48.

(3) In the event that any samples are obtained prior to leaving the premises, a receipt describing the samples obtained shall be given to the owner, operator, or agency in charge and, if requested, a portion of each such sample equal in volume or weight to the portion retained. A copy of the results

shall be furnished to the owner, operator or agency in charge if an analysis is made.

Section 3. Timing and Conduct of Inspections. (1) The county enforcement representative shall have unrestricted right of entry and access to all parts of any facility identified in Section 5 of this administrative regulation located in the county for any purpose associated with their proper duties pursuant to 401 KAR Chapters 47 and 48.

(2) Presentation of credentials. The county enforcement representative shall present credentials for identification purposes upon request by a representative of the owner or operator.

(3) The county enforcement representative shall not be required by the cabinet or the owner or operator to schedule inspections or to give prior notice that an inspection shall be conducted.

(4) The county enforcement representative shall only be authorized to inspect inside the boundaries of the county or urban county government that elected to implement KRS 109.042.

Section 4. Reporting Requirements. (1) A report listing any deficiencies found during the inspection shall be prepared by the inspector and shall be kept on file in the county. A copy of the inspection report shall be provided to the owner or operator or his agent immediately upon completion of the inspection.

(2) The county enforcement representatives shall make and maintain written records of inspections or investigations including observations made and factual matters discovered. A copy of such record shall be made available to the owner or operator and shall be available for public inspection.

(3) The county enforcement representative shall notify the cabinet of any noncompliance with the requirements of KRS Chapter 224 and 401 KAR Chapters 47 and 48, the terms and conditions of the permit, and any order of the secretary upon completion of the inspection. The notification shall be by submittal of an inspection report to the cabinet including documentation of the deficiency(ies) noted. The cabinet shall respond to the county enforcement representative concerning the deficiency report within three (3) working days of receipt. When such response is by telephone, it shall be followed up by a written reply.

Section 5. Applicability. (1) The provisions of this administrative regulation apply to county enforcement officers hired by county or urban county governments under the provisions of KRS 109.042 and KRS 68.178 to inspect contained, construction/demolition and residual landfills; registered permit-by-rule which entail disposal, and residential and inert facilities through the transition period located within the county's geographical boundary.

(2) Notification procedures. The county shall notify the cabinet in writing of the county enforcement officer's name and hiring date within thirty (30) days of his employment. (16 Ky.R. 1721; 2170; eff. 5-8-1990; Crt eff. 10-9-2018.)